

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1599 – SB 1649

February 28, 2018

SUMMARY OF ORIGINAL BILL: Establishes that any employer which accepts or employs a secondary education student in work-based learning (WBL) coordinated through such student's local education agency (LEA) shall not be liable for actions relating to that student unless the employer acted willfully or with gross negligence and may elect to provide worker's compensation insurance to compensate the participating student for an injury. Requires any such LEA to maintain liability insurance coverage for all students participating in WBL programs. Requires an LEA to maintain liability insurance coverage to compensate any student participating in a WBL opportunity, for any injury which is not covered by the employer's policy for workers' compensation.

Authorizes an employer, which accepts or employs a secondary education student participating in a WBL opportunity, to claim a \$500 tax credit against franchise and excise (F&E) tax liability. Such tax credit shall be available for the tax period covered in which the student is employed by the taxpayer. Such credit is nonrefundable, nontransferable, and shall be awarded on a first-come, first-served basis. Any unused credit may be carried forward for five years beyond the year in which the credit originated. A single taxpayer can earn no more than \$5,000 in excise tax credits per year. The maximum annual amount of excise credits that may be awarded by the credit established by this legislation is \$1,000,000.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue - \$1,000,000/FY19-20 and Subsequent Years

Other Fiscal Impact – Mandatory increases in local expenditures for the provision of liability insurance coverage provided by local education agencies for students participating in work-based learning opportunities. The extent of any such impacts cannot be determined for they are dependent upon several unknown factors.

SUMMARY OF AMENDMENT (013866): Deletes and rewrites all language after the enacting clause such that the only substantive changes include: specifies that the bill as amended also applies to WBLs coordinated through a student's state institution of higher education, including, but not limited to, Tennessee Colleges of Applied Technology, and establishes that if the total amount of credits claimed by all taxpayers exceeds the \$1,000,000 limit, each taxpayer shall receive a credit equal to the quotient of the credit claimed by the taxpayer divided by the total of all credits claimed and then multiplied by \$1,000,000; requires institutions of higher education to maintain liability insurance coverage for all students participating in WBL programs and requires a state institution of higher education to maintain liability insurance coverage to

compensate any student participating in a WBL opportunity, for any injury which is not covered by an employer's policy for workers' compensation; and establishes that this Act applies to tax years beginning on or after January 1, 2018, rather than being effective on January 1, 2019.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease State Revenue - \$1,000,000/FY18-19 and Subsequent Years

Other Fiscal Impact – Mandatory increases in local expenditures for the provision of liability insurance coverage provided by local education agencies and state institutions of higher learning for students participating in work-based learning opportunities. The extent of any such impacts cannot be determined for they are dependent upon several unknown factors.

Assumptions for the bill as amended:

- Based on information from the Department of Education, the number of students enrolled in WBLs in FY16-17 totaled 10,501.
- Given the \$500 F&E tax credit per student, per year, and the total maximum of credits that may be issued pursuant to this legislation, it is reasonably estimated that employers participating in WBL opportunities will be granted the annual maximum of \$1,000,000 in credits.
- For purposes of promulgating rules, this legislation shall take effect upon becoming law. For all other purposes, this legislation shall take effect January 1, 2018.
- Credits will be able to be earned by employers which accept or employ a student of a state institution of higher education or secondary education after January 1, 2018. It is assumed that credits authorized by this legislation will impact F&E tax liability of such employers, beginning in FY18-19.
- A recurring decrease in state F&E tax revenue in FY18-19 and subsequent years of \$1,000,000.
- This legislation authorizes, but does not require an employer, who accepts or employs a student of a state institution of higher education or secondary education in a WBL opportunity, to provide such student with workers' compensation insurance.
- This legislation requires LEAs and state institutions of higher education to maintain liability insurance coverage for all students participating in such WBL programs.
- It further requires an LEA or state institution of higher education to maintain liability insurance coverage to compensate any student participating in a WBL opportunity, for any injury which is not covered by a policy for workers' compensation insurance.
- This legislation is estimated to result in an increase in the amount of liability insurance held by LEAs and state institutions of higher education to cover students participating in WBL opportunities.

- The amount of any such increase will be dependent upon the extent to which employers, participating in such WBL opportunities, elect to provide workers' compensation coverage to respective secondary education students enrolled in WBL opportunities.
- Any increase in an LEA's or state institution of higher education's liability insurance coverage will result in a mandatory increase in premium payments paid by such LEAs or state institutions of higher education.
- Based on multiple unknown factors, including the number of employers which will elect to provide workers' compensation coverage to students participating in WBL opportunities, the number of LEAs and state institutions of higher education which will need to increase liability insurance, the specific insurance policies covering each individual, the impacted LEAs and state institutions of higher education, and the amount of any such increase, the impact to LEAs and state institutions of higher education cannot be determined with any reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jdb